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January 14, 2000

TO INTERESTED PARTIES:

PROPERTY TAX RULE 305.3  
APPLICATION FOR EQUALIZATION AFTER A MANDATORY AUDIT

On December 3, 1999, we advised interested parties that Board staff would develop a Property Tax Rule that clarifies the appeals provisions following a mandatory audit pursuant to section 469 of the Revenue and Taxation Code. The rule will be Property Tax Rule 305.3, *Application for Equalization After a Mandatory Audit*. It is scheduled for discussion at the Board's Property Tax Committee meeting on April 5, 2000.

Enclosed is a draft of Rule 305.3. This draft addresses, among other issues, the following:

- Defines *result of an audit* to mean the total value of the property subject of the audit for each assessment year.
- Clarifies that an escape assessment does not need to be enrolled to qualify for the equalization provisions of section 469 of the Revenue and Taxation Code.
- Defines *all property of the assessee* to include both real and personal property.
- Clarifies what serves as notice, under various circumstances, for purposes of filing an Application for Changed Assessment.

There will be an Interested Parties meeting to resolve issues about this rule on February 25, 2000 in Sacramento at 450 N Street, Room 122, at 9:00 a.m. Comments regarding this draft must be received by February 11, 2000 in order to make them part of the discussions at the Interested Parties meeting.

Comments and suggested alternative language should be submitted to Sherrie Kinkle in the Policy, Planning, and Standards Division; e-mail skinkle@boe.ca.gov; FAX (916) 323-8765.

Thank you for your continued interest in this project. If you have any questions, you may contact either Lou Ambrose at (916) 445-5580 or Sherrie Kinkle at (916) 322-2921.

Sincerely,

Richard C. Johnson  
Deputy Director  
Property Taxes Department

RCJ:sk  
Enclosure

### **RULE 305.3. APPLICATION FOR EQUALIZATION AFTER A MANDATORY AUDIT**

*Reference:* Sections 155.20, 408, 469, 531, 531.8, 533, 1603, 1605, 2611.4, 4986.8, Revenue and Taxation Code.

(a) If the result of an audit conducted pursuant to section 469 of the Revenue and Taxation Code discloses property subject to an escape assessment for any year covered by the audit, then the assessee may file an application pursuant to sections 1603 and 1605 of the Revenue and Taxation Code for:

(1) The escape assessment, and/or

(2) The original assessment of all property of the assessee at the location of the profession, trade, or business for that year, except in those instances when the property had previously been equalized for the year in question.

(b) **DEFINITIONS.** For purposes of subsection (a) of this regulation:

(1) "Result of an audit" means the total value of the property subject to the audit for each assessment year. If the total value of the property determined by the audit is higher than the assessed value on the roll, an escape assessment shall be enrolled in accordance with section 533 of the Revenue and Taxation Code. If the total value of the property determined by the audit is lower than the assessed value on the roll, the assessor shall notify the assessee of the fact that a claim for cancellation or refund may be filed. The assessor shall not offset the total value of the property of the audit for one assessment year by the total value of the property of the audit for other assessment years. The provisions of section 155.20 of the Revenue and Taxation Code are not applicable to escape assessments made pursuant to section 469 or this regulation.

(2) "Property subject to an escape assessment" means the total value of the property subject to the audit for an assessment year exceeds the value of the original assessment on the assessment roll for that year as disclosed by the audit, regardless of whether an escape assessment is enrolled.

(3) "Original assessment" means the assessment for the year in which the result of the audit discloses property subject to an escape assessment.

(4) "All property of the assessee" means any property, real or personal, assessed to the assessee in the year of the audit at the location at which the personal property and/or fixtures are subject to audit.

(5) "Location of the profession, trade, or business" means the location, for assessment purposes, of all the property that is the subject of the mandatory audit.

(6) "When the property had previously been equalized for the year in question" means that a board has previously determined a value for the property, either as the result of a hearing or by approval of a stipulation.

**(c) NOTICE OF AUDIT RESULTS.** If the audit for any tax year discloses that the property of the assessee is subject to escape assessment, the assessor shall notify the assessee of the results of the audit. At the request of the assessee, the assessor shall permit the assessee to inspect or copy any information, documents, or records relating to the audit in accordance with the provisions of Revenue and Taxation Code section 408.

**(d) NOTICE FOR FILING AN APPLICATION.** (1) The notice referred to in section 1605 of the Revenue and Taxation Code for purposes of filing an application shall include:

(A) The tax bill, for counties of the first class or any county adopting a resolution pursuant to section 1605, subdivision (c), of the Revenue and Taxation Code.

(B) A notice sent subsequent to the notice required by Revenue and Taxation Code section 531.8 but prior to the tax bill, for counties that have not adopted a resolution pursuant to section 1605, subdivision (c). If the county elects not to send such a notice, then the tax bill shall serve as notice.

(C) The document sent pursuant to paragraph 2 of section 469 of the Revenue and Taxation Code, for counties where the county auditor or tax collector elect not to send a tax bill pursuant to the provisions of sections 2611.4 or 4986.8 of the Revenue and Taxation Code. The document required by paragraph 2 of section 469 shall be sent to the taxpayer upon completion of an audit, regardless of whether a notice or tax bill is sent.

(2) Any notice or document sent pursuant to (A), (B), and (C) of this subsection shall clearly indicate that it serves as notice for purposes of filing an application and shall apprise the assessee of his or her right to file an application within 60 days of the mailing of the notice or document.